IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 6TH JULY 2007 / 15TH ASHADHA 1929

WP(C).No. 14514 of 2007(C)

OA.1014/1998 of DEBT RECOVERY TRIBUNAL, ERNAKULAM

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PETITIONER:

LAILA THAMEEM, AGED 56 YEARS,
W/O.LATE THAMEEM, H.NO.23/2188,
MARUNNUKADA, PALLURUTHY, KOCHI-6.

BY ADV. SRI.C.KHALID
SRI.R.O.MUHAMED SHEMEEM
SRI.T.P.SAJID

RESPONDENTS:

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1. RECOVERY OFFICER, DEBT RECOVERY TRIBUNAL, ERNAKULAM.

2. SUHARA, W/O.LATE KUNJU MOHAMMED, C.C.23/2188, RAMESWARAM VILLAGE, COCHIN.

3. GEORGE, EXCISE GUARD, NEDUMKANDAM, KATTAPPANA, IDUKKI.

4. THE MANAGER, CENTRAL BANK OF INDIA, PERUMANOOR BRANCH, ERNAKULAM.

BY ADV. SRI.TOM JOSE – FOR R2
SRI.V.V.SIDHARTHAN – FOR R1
SRI.D.G.VIPIN
SMT.VANAJA MADHAVAN
SRI.V.V.SIDHARTHAN
SRI.D.G.VIPIN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) No. 14514/2007

APPENDIX

PETITIONER'S EXHIBITS

P1 : COPY OF THE ORDER OF CONFIRMATION OF SALE OF IMMOVABLE PROPERTY BY RECOVERY OFFICER, DEBT RECOVERY TRIBUNAL, ERNAKULAM DATED 04/02/2004.

P2 : COPY OF THE CERTIFICATE OF SALE DATED 19/02/2004.

P3 : COPY OF THE POSSESSION CERTIFICATE DATED 14/05/2004 ISSUED BY VILLAGE OFFICER, RAMESWARAM.

P4 : COPY OF TAX RECEIPT DATED 12/05/2004 IN FAVOUR OF THE PETITIONER.

P5 : COPY OF the ORDER DATED 28/01/2005 IN WP(C) No. 13311/2004 BEFORE THE HON'BLE HIGH COURT.

P6 : COPY OF THE ORDER DATED 22/09/2006 IN WA NO. 345/2005 BEFORE THE DIVISION BENCH OF HON'BLE HIGH COURT.

P7 : COPY OF THE NOTICE DATED 26/10/2006.

P8 : COPY OF THE APPLICATION DATED 16/01/2007 BEFORE THE RECOVERY OFFICER, DEBT RECOVEYR TRIBUNAL, ERNAKULAM.

P9 : COPY OF THE ORDER IN IA NO. 2021/06 PASSED BY THE 1ST RESPONDENT.

P10 : COPY OF THE NOTICE DATED 26/04/2007 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.

P12 : COPY OF THE ACCIDENT REGISTERS-CUM-WOUND CERTIFICATES ISSUED BY THE SUPERINTENDENT AT GOVERNMENT MAHARAJA'S HOSPITAL, KARUVELIPADY.

P13 : COPY OF THE NOTICE DATED 10/05/2007.

P14 : COPY OF O.S.NO.7/2007 BEFORE THE SUB COURT, KOCHI.

RESPONDENT'S EXHIBITS

R1(a) : COPY OF THE MEMO DATED 14/05/2007 FILED BY THE PETITIONER IN DRC 118/CBI/EKM IN OA 1014/98 ALONG with A COPY OF THE INTERIM ORDER ATED 08/05/2007 IN WP(C) No. 14514/2007.

R1(b) : COPY OF THE PANCHANAMA INVENTORY OF ARTICLES FOUND IN THE PREMISES OF THE PROPERTY, BOND EXECUTED BY 2ND RESPONDENT AND THE ACKNOWLEDGMENT OF POSSESSION OF THE PROPERTY.

R1(c) : COPY OF THE TOUR PROGRAMME APPROVED by the PRESIDING OFFICER OF THE DEBT RECOVERY TRIBUNAL.

R1(d) : COPY OF THE NOTICE DATED 10/05/2007 ADDRESSED TO THE 2ND RESPONDENT AS WELL AS WITH COPIES TO PETITIONER AND THE 4TH RESPONDENT.

R1(e) : COPY OF THE BIDDING SHEET DATED 02/11/2006 EVIDENCING THE PRESENCE AND PARTICIPATION IN THE BID OF BOTH THE PETITIONER AND THE 2ND RESPONDENT.

// TRUE COPY //

jg PA TO JUDGE.

C.N.RAMACHANDRAN NAIR, J.

WP(C) No. 14514 of 2007

Dated, this the 6th day of July, 2007

J U D G M E N T

Petitioner is challenging sale of the property by the recovery officer to 2nd respondent in auction. In fact the property was earlier sold and this Court interfered with the sale vide Ext.P5 judgment. This Court directed the recovery officer to follow a fair procedure and give an opportunity to all concerned parties to participate. In fact, it is submitted by the learned counsel for the 4th respondent and counsel appearing for the 2nd respondent that petitioner also participated in the auction and highest offer made by the petitioner was Rs. 4.5 lakhs as against Rs. 4.6 lakhs offered by the 2nd respondent. Sale is confirmed in favour of the highest bidder by the recovery officer. I do not find any ground to interfere with the sale confirmed and delivery given by the recovery officer to the purchaser. Moreover, the ground raised by the petitioner that sufficient notice was not there is unacceptable because petitioner herself participated and turned out to be the 2nd largest bidder. Therefore this WP(C) fails and is dismissed.

(C.N.RAMACHANDRAN NAIR, JUDGE)

jg